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CHAPTER 30: TOWN OFFICIALS

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GENERAL PROVISIONS

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§ 30.01 PURPOSE.

This chapter defines the organization of the town government; it prescribes general regulations for town officials; and it states the general powers and duties of the various elective offices and departments.

(Prior Code, Ch. 2, Art. I)

§ 30.02 GENERAL REGULATIONS FOR TOWN OFFICIALS.

(A) *Applicability.* The provisions of this section shall apply alike to all officers and employees of the town not otherwise herein specifically provided for, regardless of the time of the creation of the office or of the time of the appointment of the officer or employee.

(B) *Term of office; appointees.* Every appointive officer or employee of the town shall hold office at the will of the Town Council except where otherwise provided by statute or ordinance.

(C) *Oath of office.* Every officer of the town shall, before entering upon any duties, take the oath prescribed by law.

(D) *Bonds.*

(1) Elected and appointed officials shall be required to give surety bonds to secure the town for the proper performance of their duties in the amounts as may be prescribed by state statutes or the Town Council.

(2) The bonds shall be procured by the Clerk-Treasurer from surety companies licensed to do business in the State of Indiana and, when procured, shall be filed in his or her office.

(E) *Fees received.* No officer or employee receiving a salary from the town shall be entitled to retain any portion of any fees collected in the performance of his or her duties as a municipal officer or employee in the absence of a specific ordinance providing for same. The Town Council shall, by resolution, determine the officers and employees who shall receive fees for their services instead of an annual salary. The resolution shall determine the amount to be paid to the officers and employees and shall be paid by the Clerk-Treasurer upon the duly processed claim of the officer or employee.

(F) *Funds to Clerk-Treasurer.* All officers and employees, other than the Clerk-Treasurer, shall turn over to the Clerk-Treasurer all monies received by him or her in his or her official capacity, with a statement showing the source from which the same was received at the intervals as prescribed by law, ordinance, or the Clerk-Treasurer.

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(G) *Termination of office.* Every officer and employee of the town, upon the expiration of his or her term for any cause whatsoever, shall deliver to his or her successor, all books and records which may be the property of the town; and if no successor has been appointed within 1 week after the termination of his or her office, the property shall be delivered to the Clerk-Treasurer. (Prior Code, Ch. 2, Art. II)

§ 30.03 OTHER TOWN OFFICIALS.

The elected and appointed town officials designated by this chapter shall not be constrained in limiting the appointment of other officials within the structure of town government. The Town Council may hereinafter create, by resolution or ordinance, the offices and appoint other officials as it deems necessary for the proper, effective, and efficient functioning of town government. (Prior Code, Ch. 2, Art. XI)

TOWN COUNCIL OF TRUSTEES

§ 30.15 ELECTION AND TERM OF OFFICE.

(A) The Town Council of Trustees shall be composed of 3 Trustees elected at-large by eligible voters of the town. Each Trustee shall be elected for a term of 4 years.

(B) Any vacancy occurring in the Town Council shall be filled by the procedures in I.C. 3-13-9 *et seq.*
(Prior Code, Ch. 2, Art. III, § 1)

§ 30.16 OATH OF OFFICE.

Members of the Town Council shall, within 10 days after the election, take and subscribe, before some person authorized to administer oaths of office, the usual oath or affirmation for the faithful performance of duties of the office.
(Prior Code, Ch. 2, Art. III, § 2)

§ 30.17 OFFICE OF PRESIDENT.

The Office of Town Council President is created and he or she shall be the presiding officer of all regular and special meetings of the Town Council. The President shall be elected by the Council at the first regular meeting of the Council in January of each year for a term of 1 year. (Prior Code, Ch. 2, Art. III, § 3)

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§ 30.18 TOWN COUNCIL MEETINGS.

(A) The Town Council shall hold its regular meetings the first and third Monday of each month at 7:00 p.m. in the Municipal Building, notice pursuant to the Indiana Open Door law (I.C. 5-14-1.5).

(Am. Ord. passed 3-5-1984; Am. Ord. passed 12-18-2006)

(B) Special meetings of the Council may be called by the President or on the request of 2 Trustees by giving at least 48 hours notice to all members of the Council and to the public pursuant to the Indiana Open Door Law (I.C. 5-14-1.5).

(Prior Code, Ch. 2, Art. III, § 4)

§ 30.19 QUORUM.

A majority of the Trustees shall constitute a quorum to do business. No ordinance shall be passed except upon the favorable vote of a majority of the members.

(Prior Code, Ch. 2, Art. III, § 5)

§ 30.20 ROBERT'S RULES OF ORDER.

Robert's Rules of Order, as revised, shall govern the deliberations of the Town Council except when in conflict with the Town Code or the Indiana Code. The rules of order, other than those required by the Indiana Code, may however, be suspended at any time by the consent of a majority of the members present at any meeting.

(Prior Code, Ch. 2, Art. III, § 6)

§ 30.21 ADDRESSING COUNCIL MEETINGS.

No person other than the President or a member of the Town Council shall address that body at any regular or special meeting except upon consent of the President.

(Prior Code, Ch. 2, Art. III, § 7)

§ 30.22 ORDINANCES AND RESOLUTIONS.

Any ordinance or resolution submitted to the Town Council shall be reduced to writing before being voted upon if requested by any 2 members of the Council.

(Prior Code, Ch. 2, Art. III, § 8)

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§ 30.23 RESCINDED ACTIONS.

No vote or action of the Town Council shall be rescinded in any special meeting of the Council unless there be present, at the special meetings of the Council, as many members of the Town Council as were present at the meeting when the vote or action was taken.
(Prior Code, Ch. 2, Art. III, § 9)

§ 30.24 POWERS AND DUTIES.

The Town Council shall have all the powers and duties prescribed by statute and shall constitute the head of legislative, executive and administrative authority for the town. It shall make and establish the by-laws, ordinances and regulations which are required to carry into effect the provisions of applicable state laws and to repeal, alter or amend them as circumstances shall require.
(Prior Code, Ch. 2, Art. III, § 10)

CLERK-TREASURER

§ 30.40 ELECTION.

The Office of the Clerk-Treasurer is an elective office and an individual shall be elected as the Clerk-Treasurer by the town voters at-large for a term of 4 years.
(Prior Code, Ch. 2, Art. IV, § 1)

§ 30.41 APPOINTMENT OF DEPUTY CLERK-TREASURER.

When authorized by the Town Council, the Clerk-Treasurer may appoint a Deputy Clerk-Treasurer who shall be an assistant to the Clerk-Treasurer and who shall perform all functions delegated by the Clerk-Treasurer. The Deputy Clerk-Treasurer shall serve at the pleasure of the Clerk-Treasurer, or for an indefinite term not to exceed the term in office of the appointing Clerk-Treasurer.
(Prior Code, Ch. 2, Art. IV, § 2)

§ 30.42 POWERS AND DUTIES.

(A) The Clerk-Treasurer serves as Clerk of the town and keeps an accurate journal of all town proceedings. The Clerk-Treasurer shall keep proper files of all papers and documents of every kind and character concerning or pertaining to the proceedings of the Council.

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(B) The Clerk-Treasurer receives and cares for all the funds of the town and pays out the same only on the order of the Town Council. Its accounts shall be kept in such a manner as to show when and from what sources all monies paid to it have been derived, and to whom and when the monies or any part thereof, have been paid out.

(C) The Clerk-Treasurer prepares, in cooperation with the Town Council, the town budget and maintains all financial records and submits all financial reports as required by the State Board of Accounts.

(D) On the first day of the month, or as soon thereafter as possible, the Clerk-Treasurer files with the Town Council a statement of receipts and disbursements of the Town Treasury for the preceding month, showing the balance in each of the several funds available for use by the town.

(E) The Clerk-Treasurer sends out billing, collects all monies in connection with the sewer tap-on fees and use fees and maintains records and makes arrangements for payments of indebtedness bonds of the town and the interest thereon when due, and performs all other duties regarding the Sewage Department as may be required by the Indiana Code.

(F) The Clerk-Treasurer issues all licenses, authorized by law or by town ordinance, and properly accounts for all funds received there from.

(G) Insures that all funds deposited in the Cumulative Capital Improvement Fund are appropriated and used solely for capital improvement projects for the town and that no part of the funds deposited in the fund reverts to the general fund of the town. (The term **CAPITAL IMPROVEMENT** means the construction or improvement of any town owned property, including but not limited to streets, thoroughfares and sewers but shall not include salaries of any public officials or employees unless directly chargeable to the improvement. The funds may also be used to retire any general obligation bonds of the town issued for the purpose of construction of improvements which would qualify for use of the funds.)

(Prior Code, Ch. 2, Art. IV, § 3)

§ 30.43 BOOKS AND RECORDS.

(A) The Clerk-Treasurer's books, accounts and vouchers shall, at all times, be subjected to examination by the Town Council or any person appointed by the Council for that purpose.

(B) All books, vouchers, monies or other property belonging to the town, and in charge or possession of the Clerk-Treasurer of the town, shall be promptly delivered to his or her successor.

(Prior Code, Ch. 2, Art. IV, § 4)

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EXECUTIVE OFFICER AND TOWN ATTORNEY

§ 30.60 DESIGNATION.

(A) The Town Council may, as authorized by the Indiana Code, employ a Town Manager. No member of the Town Council shall, during the time for which he or she has been elected, be employed as the Town Manager.

(B) In the event the Town Council does not employ a Town Executive Officer or Town Manager, all references to the Town Manager as used in the code shall also mean the Town Council.

(Prior Code, Ch. 2, Art. V, § 1) (Ord. passed 7-6-1981)

§ 30.61 TERMS OF OFFICE.

The Town Executive Officer may be employed to serve at the pleasure of the Council or for a definite tenure, not to exceed the term in office of the appointing Town Council, but his or her employment shall always be terminable for cause.

(Prior Code, Ch. 2, Art. V, § 2)

§ 30.62 COMPENSATION.

The Town Council shall determine the amount of compensation, benefits and terms of employment of the Town Executive Officer.

(Prior Code, Ch. 2, Art. V, § 3)

§ 30.63 POWERS AND DUTIES.

The Town Executive Officer shall:

(A) Be the administrative head of the government of the Town of Spencer. He or she shall be directly responsible to the Town Council for the proper administration of all affairs of the town over which the Town Council has control;

(B) Attend meetings of the Town Council and provide the Council with current or anticipated problems which will require resolution and provide it with the additional recommendations as he or she deems appropriate and in the best long and short range interest of the town;

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(C) Coordinate, as required, the activities and functioning of the various boards, committees, authorities, or other special groups as may be established according to the Indiana Code or by the Town Council to meet special requirements or needs of the town;

(D) Administer the execution and enforcement of all resolutions, orders, and ordinances promulgated by the Town Council, and see that all laws of the State of Indiana required to be enforced through the Town Council are faithfully executed;

(E) Cooperate and coordinate with the Clerk-Treasurer in the financial management of funds made available through the budget process;

(F) Execute or insure execution, on behalf of the town, all contracts which the Town Council, or its officers, have the power to execute for goods, materials, services, construction, or improvement; provided, that nothing shall be deemed to amend any laws pertaining to the necessity for proper appropriation of public funds prior to contracting nor to amend any applicable laws requiring public notice for and receipt of competitive bids;

(G) Establish and provide policies for use by the head of each town department in the procurement of supplies, materials or services required by each respective department;

(H) Perform the other duties and functions as are necessary to the effective, efficient and economical operation of the town's departments or as may be assigned by the Town Council; and

(I) Shall have no powers or duties regarding the rights and responsibilities assigned to the Clerk-Treasurer by law or by order of the Town Council.
(Prior Code, Ch. 2, Art. V, § 4)

§ 30.64 SERVICE OF SUMMONS.

In all actions brought against the town, service of summons may be made on the Town Executive Officer and he or she is hereby authorized to receive the service on behalf of the town.
(Prior Code, Ch. 2, Art. V, § 5)

§ 30.65 THE TOWN ATTORNEY.

The Town Council will appoint a Town Attorney to provide it with the necessary and required legal advice, counsel, and services. He or she shall be compensated for his or her duties at an hourly rate as may be prescribed by the Town Council and he or she shall be entitled to a reasonable compensation for all services performed by him or her for the town at the direction of the Town Council.
(Prior Code, Ch. 2, Art. VI)

CHAPTER 31: TOWN ORGANIZATIONS

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PARKS AND RECREATION BOARD

§ 31.01 MEMBERSHIP.

(A) *Members.* Four members shall be appointed by the Town Council President.

(1) Membership shall be based on a person's interest and knowledge of parks and recreation.

(2) No more than 2 members shall be of the same political party.

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(3) No member shall be on the Town Council of Trustees, or be the Town Clerk-Treasurer, be on the County Council, a County Commissioner, or a county fiscal officer.

(4) All members shall be residents of the town.
(I.C. 36-10-3-4)

(B) *Terms of office.*

(1) Members shall serve for 4 years after the initial appointment of 1 for 1 year, 1 for 2 years, 1 for 3 years, and 1 for 4 years.

(2) All terms expire the first Monday of January, but a member continues to serve until his or her successor is appointed. If a new appointment is not made by the first Monday of April, the incumbent serves another 4 year term.

(3) If a vacancy occurs, the Town Council President appoints a person to serve the remainder of that term.
(I.C. 36-10-3-5) (Prior Code, Ch. 6, Art. I) (Ord. 1985-5, passed 5-6-1985)

§ 31.02 MEETINGS.

(A) *Public meetings.* All meetings shall be open to the public. Notice shall be given pursuant to the Open Door Law.

(B) *Quarterly meetings required.* The Parks and Recreation Board shall meet at least quarterly.

(C) *Time and place of meetings.* The members shall establish times and places for each meeting.

(D) *Election of officers.* At the first meeting each year, the members shall elect a President, Vice-President, and may elect a Secretary, who does not have to be a Park Board member.

(E) *Quorum.*

(1) A majority of the membership is a quorum.

(2) No action is official unless authorized by at least 3 members present and acting.
(Prior Code, Ch. 6, Art. II) (Ord. 1985-5, passed 5-6-1985)

§ 31.03 DUTIES AND POWERS.

(A) *Duties.*

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- (1) Shall supervise, in general, and make rules for the Department;
- (2) Shall establish rules for the use of facilities;

(3) Shall provide police protection for its property and activities, by requesting assistance from state, county, or town police, or by deputizing specified employees;

(4) Shall appoint needed administrative officers in the Parks and Recreation Department, and fix their duties; and

- (5) Prepare and submit an annual budget.

(I.C. 36-10-3-10)

(B) Powers.

(1) May enter into contracts and leases for facilities and services, with other units, schools, or persons;

- (2) May acquire and dispose of real or personal property;

- (3) May exercise eminent domain;

(4) May sell, lease, or contract the mineral or natural resources of the land they own. Money from this source must be deposited in a non-reverting capital fund of the Board;

- (5) Engage in self-supporting activities;

(6) May prepare, publish, and distribute reports and or materials related to their activities; and

- (7) May accept gifts, donations, and/or subsidies.

(I.C. 36-10-3-18)

(a) These funds shall be deposited in a non-reverting fund, to be used as the grantor(s) specified.

(b) Claim vouchers must be signed by the Parks and Recreation Board President and Secretary.

(I.C. 36-10-3-11)

(Prior Code, Ch. 6, Art. III) (Ord. 1985-5, passed 5-6-1985)

Statutory reference:

Self-supporting activities, see I.C. 36-10-3-22

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PLAN COMMISSION

§ 31.20 PURPOSE.

This subchapter creates the Spencer Advisory Plan Commission to promote the orderly growth of the town; to improve the health, welfare, safety, and convenience of its residents; and to plan development of residential, industrial, agricultural, and business needs for growth. (Prior Code, Ch. 8, Art. I) (Ord. 1985-1, passed 1-21-1985)

Cross-reference: *Subdivisions, Chapter 153*

§ 31.21 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context indicates or requires a different meaning.

COMMISSION. The Spencer Advisory Plan Commission.

DISTRICT. An area identified and zoned for certain purposes and use.

MASTER PLAN. A complete plan or its parts for land use and zoning, thoroughfares, sanitation, recreation, and other related matters.

PERSON. An individual, firm, partnership, company, or corporation.

PLANNING AREA. The land area in the corporate limits of the town.

PUBLIC PLACE. All tracts owned by the town.

STREETS. All public ways, streets, avenues, roads, lanes, and alleys.

UTILITY. Any facility used to provide a service that the public has a right to demand. (Prior Code, Ch. 8, Art. II) (Ord. 1985-1, passed 1-21-1985)

§ 31.22 MEMBERSHIP OF THE COMMISSION.

(A) *Appointment and term of office.* The Commission shall consist of 7 members who shall be qualified by knowledge and experience in the development of the town and its planning area.

(1) The Town Council shall appoint 3 persons who must be elected or appointed town officials or employees of the town government, as members.

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(2) The President of the Town Council shall appoint 4 persons who are residents of the town, of whom no more than 2 shall be of the same political party.

(3) Each term of office shall be 4 years, with each member serving until his or her successor is appointed and qualified.

(B) *Oath of office.* Each Commission member, before beginning his or her duties, shall take an oath of office on the certification of his or her appointment. The oath shall be filed in the Clerk-Treasurer's office.

(C) *Conflict of interest.* Any member of the Commission who has a direct or indirect financial interest in a matter before the Commission shall disclose his or her interest and shall not vote, participate, or discuss the matter at hearings.

(Prior Code, Ch. 8, Art. III) (Ord. 1985-1, passed 1-21-1985)

§ 31.23 ORGANIZATION OF THE COMMISSION.

(A) *Officers.* After appointment, members of the Commission shall meet, elect a President and Vice-President for annual terms and shall adopt the rules and by-laws as necessary. The Commission may appoint a Secretary who is not a member of the Commission.

(B) *Meetings.*

(1) The Commission normally meets at least once a month as determined by the President. All meetings of the Commission shall be open to the public. Written records of all proceedings shall be kept and be a part of the Commission's files.

(2) Special meetings may be called by the President or by 2 members on written request to the Secretary. The Secretary shall notify all members at least 3 days in advance of a special meeting, in writing. Written notice of special meetings is not required if members were notified at a regular meeting, and if all members are present at the regular meeting.

(C) *Quorum.* A quorum consists of a majority of the entire membership of the Commission. (Prior Code, Ch. 8, Art. IV) (Ord. 1985-1, passed 1-21-1985)

§ 31.24 POWERS AND DUTIES.

The Commission shall:

(A) Make recommendations to the Town Council concerning the operation of the Commission and report on planning activities;

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(B) Prepare a Master Plan for the Planning Area which will promote the general welfare, health, safety, and convenience as the town develops;

(C) Make recommendations to the Town Council on the adoption of a Master Plan, its zoning districts, and subdivisions; and to recommend changes or amendments when needed;

(D) Prescribe uniform rules for investigations and hearings;

(E) Prepare, publish, distribute reports, ordinances, and other materials;

(F) Keep a complete record of all departmental proceedings and assume responsibility for preservation of all papers and documents;

(G) Adopt a seal and certify to all official acts;

(H) Establish committees as necessary; and

(I) Approve assignments of street numbers to new lots, and name new streets. Exercise all other powers and duties prescribed by law or assigned by the Town Council.
(Prior Code, Ch. 8, Art. V) (Ord. 1985-1, passed 1-21-1985)

§ 31.25 THE SPENCER MASTER PLAN.

(A) *General.* The Master Plan shall be the basis comprehensive document used to guide the orderly development of the town:

(1) Careful, comprehensive survey and study of existing conditions and the probable future growth of the town; and

(2) Maps, plats, or materials giving information, locations, extent and characteristics of: history, population, its density, physical conditions, land use, blighted areas, streets, streams, floods; utilities, transportation; parks and recreation, public buildings and institutions, educational facilities, and/or any other factors that are a part of the structure of the town.

(B) *Basis of the Master Plan.* The Master Plan shall be based on:

(1) Careful, comprehensive survey and study of existing conditions and the probable future growth of the town; and

(2) Maps, plats, or materials giving information, locations, extent and characteristics of history, population, its density, physical conditions, land use, blighted areas, streets, streams, floods, utilities, transportation, parks and recreation, public buildings and institutions, educational facilities, and/or any other factors that are a part of the structure of the town.

(C) *Zoning districts.*

Town Organizations

(1) The Commission shall establish and recommend the zoning districts that divide the town into areas of the kind, character, number, shape and area necessary to promote the health, welfare, safety, comfort and convenience of all.

(2) The districts created shall be subject to restrictions that may be necessary and appropriate in that district, such as use restrictions, structure restrictions, or other requirements.

(D) *Adoption of Master Plan.* Shall be in accordance with Indiana state laws. (Prior Code, Ch. 8, Art. VI) (Ord. 1985-1, passed 1-21-1985)

§ 31.26 AMENDMENTS OR REJECTIONS TO THE MASTER PLAN.

(A) Plan Commission hearings.

(1) The Commission shall give notice and hold public hearings as required in I.C. 5-3-1, for any amendments or changes in the Zoning Ordinance (Master Plan).

(2) After a public hearing has been held, the Commission shall make its recommendation to the Town Council.

(3) If the Town Council wishes to amend the Zoning Ordinance, it may direct the Commission to prepare the amendment and submit it to a public hearing within 60 days after a formal written request by the Town Council:

(a) The Commission has 45 days to consider the amendment or rejection and to file a report with the Town Council. If the Commission approves an amendment or rejection, the ordinance stands as passed by the Town Council on the date the Commission reports to the Town Council;

(b) If the Commission does not file its report to the Town Council within 45 days, the Town Council action becomes final; and

(c) If the Commission disapproves the amendment or rejection, the Town Council must confirm its original vote by a 2/3 majority vote in order to pass the issue.

(B) Petitions for amendments.

(1) Duly signed petitions may be given to the Clerk-Treasurer by:

(a) The Commission; and

(b) The owners of at least 50% of the area involved in the petition.

(2) If a petition for amendment to the Zoning Ordinance does not originate with the

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Commission, it must be referred to the Commission for consideration and a report before any final action is taken by the Town Council.

(C) *Commission rejection or adverse report.*

(1) If the Commission is adverse to a proposed amendment referred to it, the proposed ordinance shall not be passed except on a new 2/3 vote of the Town Council.

(2) Failure of the Town Council to pass a zoning ordinance within 90 days after its rejection by the Commission constitutes a rejection of the proposed ordinance and it may not be reconsidered by the Commission or the Town Council until the expiration of 1 year after the date of the original rejection by the Commission.

(Prior Code, Ch. 8, Art. IX) (Ord. 1985-1, passed 1-21-1985)

BOARD OF ZONING APPEALS AND PLANNING COMMISSION

§ 31.40 MEETINGS.

Unless the meeting time and place should be changed, the regular meeting time for the Board of Zoning Appeals shall be at 7:00 p.m. and the Planning Commission shall be at 7:30 p.m. at the Municipal Building, located at 90 North West Street, Spencer, Indiana in accordance with § 31.23(B)(1).

(Ord. passed 12-18-2006)

CHAPTER 32: TOWN DEPARTMENTS

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POLICE DEPARTMENT

§ 32.01 POLICE DEPARTMENT.

(A) There is hereby created a Police Department for the town. It shall consist of the Town Marshal and the full and part-time Deputy Marshals as shall be authorized from time to time by the Town Council.

(B) The Police Department shall be under the general administrative direction of the Town Marshal.

(Prior Code, Ch. 2, Art. VII, § 1)

§ 32.02 ORGANIZATION.

(A) The Town Marshal shall be the head of the Police Department. He or she shall have supervision over all officers and members thereof and he or she shall be responsible for the performance by the Police Department of all disciplinary functions, and all persons who are members of the Police Department shall serve subject to the orders of the Town Marshal.

(B) The Department shall include a Special Deputy with limited authority who shall be designated as the Meter Person.

(Prior Code, Ch. 2, Art. VII, § 2)

§ 32.03 APPOINTMENTS.

(A) The Town Marshal shall be appointed by the Town Council and he or she shall serve at the pleasure of the Town Council. All Deputy Marshals, whether full or part-time, shall not be appointed without Town Council approval.

(B) All appointees to the Police Department, except the Meter Person, must be graduates of the Indiana Law Enforcement Academy at the time of their paid appointment date, or shall agree prior to the appointment date, to attend and pass the Academy (normally within an approximate year after their paid appointment date to the Department).

(Prior Code, Ch. 2, Art. VII, § 3)

Town Departments

§ 32.04 COMPENSATION.

The Town Council shall determine the amount of compensation, benefits, and terms of employment for the Town Marshal and all deputies.

(Prior Code, Ch. 2, Art. VII, § 4)

§ 32.05 CONDUCT OF OFFICERS.

It shall be the duty of every member of the Police Department to conduct himself or herself in a proper and law abiding manner at all times. All officers shall use only the force allowable by law while executing the provisions of state law, town ordinances and town policies.

(Prior Code, Ch. 2, Art. VII, § 5)

§ 32.06 RULES AND REGULATIONS.

The Town Marshal shall make or prescribe the rules and regulations as he or she deems advisable, when approved by the Town Council. The rules and regulations shall be binding on all members of the Department. The rules and regulations may include, but are not limited to, the conduct of members, uniforms and equipment to be worn or carried, hours of service, and all other similar matters necessary for the operation of an efficient Department.

(Prior Code, Ch. 2, Art. VII, § 6)

§ 32.07 POWERS AND DUTIES.

The Town Marshal and his or her duly appointed deputies:

(A) Shall be the conservator of peace and shall arrest, without process, all persons who within their view commit any crime or misdemeanor contrary to the Indiana Code and/or ordinances of the town, and shall suppress all breaches of the peace within their knowledge. They shall take all suspects before the court having jurisdiction of the offense with which the person is charged, and retain them in custody for no more than 48 hours without probable cause for the arrest being determined by the court of jurisdiction;

(B) Have the authority to pursue and commit to jail all felons, persons guilty of arrest, all misdemeanors and/or crimes in violation of state statutes. They may call to their aid the power of the town and enforce applicable town ordinances;

(C) Possess all the common-law and statutory powers of an Indiana law enforcement officer in relation to the service of civil process; and any warrant of search or arrest, issued by any judge, or magistrate, may be executed in any part thereof subject to the laws of the state governing arrest and bail;

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(D) Shall, as needed, have the power and authority as prescribed by law for humane officers in the prevention of cruelty to animals and shall have authority to enforce town ordinances pertaining to the control of animals within the corporate limits of the town;

(E) Shall (including the person designated as Meter Person) have the authority to issue local ordinance citations for ordinance violations and control traffic as permitted by law. The Meter Person may under special conditions, (such as for funeral processions, school children crossings, and similar circumstances) also stop traffic; and

(F) Perform the other duties, allowable under the law, as may be prescribed, by the Town Council.

(Prior Code, Ch. 2, Art. VII, § 6)

§ 32.08 USE OF EQUIPMENT.

No equipment, tools, or other property of the town furnished to the Police Department shall be used for any purpose other than for accomplishing the responsibilities assigned to the Police Department without prior Town Council approval.

(Prior Code, Ch. 2, Art. VII, § 7)

§ 32.09 LIABILITIES.

The deputies, including the Meter Person, when appropriate and within the scope of their powers and duties in executing the orders of the Town Council or enforcing the ordinances of the town, shall possess the powers of and be subject to the liabilities of the Town Marshal.

(Prior Code, Ch. 2, Art. VII, § 9)

§ 32.10 RECORDS AND REPORTS.

The Town Marshal shall keep the records and make the reports concerning the activity of his or her Department, as may be required by the Indiana Code, to the Town Council and/or Clerk-Treasurer.

(Prior Code, Ch. 2, Art. VII, § 10)

§ 32.11 CUSTODY AND PROPERTY.

The Town Marshal shall have the temporary custody of all evidence, lost, abandoned, or stolen property recovered by his or her Department.

(Prior Code, Ch. 2, Art. VII, § 11)

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§ 32.12 POLICE RESERVES.

(A) *Police Reserve membership.* There is hereby created a Spencer Police Reserve Unit, the membership of which shall consist of not more than 10 persons of active status nor more than 5 persons of inactive status. The Spencer Police Reserve Unit shall be made up of persons who at the time of their appointment shall be residents of Owen County, or contiguous counties, and who have been actual residents thereof for at least 1 year prior to their appointment. Each member shall be in good physical condition and of good character and not less than 21 years of age. Appointments to the Spencer Police Reserve Unit shall be made by the Spencer Town Council upon recommendation of the Town Marshal. Any reserve member may be discharged at any time, with or without cause, by the Spencer Town Council upon recommendation of the Town Marshal. Regular full time members of the Police Department shall not be eligible for membership in the Spencer Police Reserve Unit.

(B) *Oath, Commissions, powers, duties.* The Spencer Police Reserve Unit shall function under the immediate direction of the Town Marshal or in his or her absence, the senior officer on duty. Before entering upon his or her duties, each member shall take and subscribe to the same oath or affirmation as provided by the statutes to be taken and subscribed by all police officers. Except during any period of probation, members of the Police Reserve Unit shall have all the powers and authority and shall be subject to all the duties of members of the regularly constituted Police Department and shall be subject to the rules and regulations governing the Police Department, provided however, that membership in the Police Reserve Unit shall not constitute membership in the regularly constituted Police Department nor shall any member of the Spencer Police Reserve Unit be entitled to any right or privilege of compensation, pension or any other similar right or privilege of members of the regularly constituted Police Department nor any other prerequisite or emolument attaching to membership in the regularly constituted Police Department.

(C) *Probationary period.* Each new member of the Police Reserve Unit shall serve on probation for a period of 6 months. During the period of probation he or she shall have only the power, authority, and duties as are assigned to them from time to time, by the Chief. Upon completion of the probationary period and/or required training, the Chief may appoint any member from probationary to active status. If a member is not appointed to active status within 1 week after the probationary period, the member shall be dropped automatically from membership in the Police Reserve Unit.

(D) *Training and by-laws.* The Chief shall determine the program for training members of the Spencer Police Reserve Unit in accordance with state statute. Training shall be completed before the end of a member's probationary period. The Spencer Police Reserve Unit may adopt its own by-laws and rules or regulations and any and all amendments thereof shall at all times be subject to approval by the Chief and shall not conflict with any provisions of this section, and shall be subordinate at all times to the ordinances of the Town of Spencer and to rules and regulations of the Spencer Police Department and to the orders of the Chief.

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(E) *Compensation.* No member of the Police Reserve Unit shall receive any compensation from the Town of Spencer for his or her services as a member of the Spencer Police Reserve except as may be provided from time to time by resolution of the Town Council.

(F) *Uniform.* The members of the Spencer Police Reserve Unit shall be furnished uniforms, id's and badges. Other limited necessary equipment may be provided by the Town of Spencer if approved by the Chief. Any such equipment issued to the Spencer Police Reserve shall be returned to the Town of Spencer upon termination of services.

(G) *Officers, elections and terms.* The Officers of the Spencer Police Reserve Unit shall consist of a President, Vice-President, Secretary and Treasurer and the other officers as provided for in the reserve unit's by-laws, who shall be elected from the non-probationary members of the Spencer Police Reserve Unit.

(H) *Financial accounts.* The financial accounts of the Spencer Police Reserve Unit shall be subject to audit by any agent designated by the Town Council any time the Town Marshal and/or Town Council may request. Any audit shall be made by an accountant or auditor appointed by the Town Marshal and/or Town Council for this purpose. Reserve officers are authorized to accept funds made available by specific donations, fundraisers, reserve activities and other similar sources. All fundraiser or activities designed to raise funds must be pre-approved by the Chief of Police, an event registration form may be used to accomplish this.

(I) *Insurance.* The Town of Spencer shall provide adequate liability insurance for members of the Reserve Unit while on duty.
(Prior Code, Ch. 2, Art. VII, § 12) (Ord. 1991-7, passed 8-19-1991)

§ 32.13 ADMINISTRATIVE/SUSPENSIONS ADVISORY BOARD.

(A) The Administrative/Suspensions Advisory Board shall consist of all current members of the Town Council, Town Attorney and the Chief Marshal.

(B) The responsibilities of this Board shall consist of:

(1) Screening applications for employment:

(a) Commissioned officers; and

(b) Reserve officers.

(2) Suspension/termination recommendations; and

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(3) Department policy recommendations.

(C) This Board shall meet within 48 hours notice by the Chief Marshal or 48 hours within a suspension of an officer. The Chief Marshal shall submit recommendations or findings to the Board at that time. If the Board finds that there is substantial evidence of misconduct, the Board may recommend that the officer remain suspended until any and all investigations are completed.

(Prior Code, Ch. 2, Art. VII, § 13) (Ord. 1991-9, passed 11-4-1991)

§ 32.14 HANDGUN APPLICATION FEES.

(A) *Fees.* The Spencer Police Department, when accepting an application for a handgun license, shall not collect an amount which exceeds the maximum allowable by state law.

(B) *Accountability.* The Spencer Police Department shall be accountable for the fees received as prescribed by the Indiana State Board of Accounts, and the fees shall be deposited by the Clerk-Treasurer into a fund designated as the Firearms Training Fund.

(C) *Disposition of funds.* The funds from the Firearms Training Fund are to be used by the Spencer Chief of Police for the purpose of training law enforcement officers in the proper use of firearms or other law enforcement duties, and can be authorized without appropriation.

(Prior Code, Ch. 23, Art. I)

§ 32.15 HANDGUN TRANSFER APPLICATION FEES.

The Spencer Police Department, when accepting an application for the transfer of a handgun, shall not collect an amount which exceeds the maximum allowable by state law.

(A) *Accountability.* The Spencer Police Department shall be accountable for the fees received as prescribed by the Indiana State Board of Accounts, and the fees shall be deposited by the Clerk-Treasurer as follows:

(1) Three dollars of each transfer fee shall be remitted quarterly on Form 366 to the Auditor of the State of Indiana, without appropriation. These funds are to be deposited in the general fund until remitted.

(2) Two dollars of each transfer fee shall be deposited into the Firearms Training Fund.

(B) *Disposition of funds.* The funds from the Firearms Training Fund are to be used by the Spencer Police Chief for the purpose of training law enforcement officers in the proper use of firearms or other law enforcement duties, and can be authorized without appropriation.

(Prior Code, Ch. 23, Art. II)

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§ 32.16 VEHICLE INSPECTION FEES.

(A) *Fees.* The Spencer Police Department, when requested to inspect a motor vehicle prior to registration in this state, shall not collect an amount which exceeds the maximum allowable by state law.

(B) *Accountability.* The Spencer Police Department shall be responsible for the accounting of the fees as prescribed by the Indiana State Board of Accounts, and the fees shall be deposited by the Clerk-Treasurer in the general fund.

(C) *Disposition of funds.* The funds received for vehicle inspection shall be used as other funds are used from the general fund, by authorized appropriations.
(Prior Code, Ch. 23, Art. III)

§ 32.17 ACCIDENT REPORT FEES.

(A) *Fees.* The Spencer Police Department shall, upon request, furnish copies of accident reports, and on a request, shall not collect an amount which exceeds the maximum allowable by state law.

(B) *Accountability.* The Spencer Police Department shall be responsible for the accounting of the fees as prescribed by the Indiana State Board of Accounts, and the fees shall be deposited by the Clerk-Treasurer into a fund designated Accident Reports.

(C) *Disposition of funds.* The funds receipted to the Accident Report Fund shall be used for costs related to accident reports, or for accident prevention on the streets or highways. The funds can be authorized by the Spencer Chief of Police without being appropriated.
(Prior Code, Ch. 23, Art. IV)

STREET DEPARTMENT

§ 32.30 STREET DEPARTMENT CREATED.

(A) There is hereby created a Street Department for the town which shall consist of a Superintendent and other employees as shall be authorized from time to time by the Town Council.

(B) The Street Department shall be under the general administrative direction of the Town Council.
(Prior Code, Ch. 2, Art. IX, § 1)

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§ 32.31 APPOINTMENTS.

(A) The Superintendent of the Street Department and all other appointments to the Department shall be made only with the approval of the Town Council.

(B) The Superintendent shall be the head of the Street Department and shall have supervisory authority over all employees thereof.
(Prior Code, Ch. 2, Art. IX, § 2)

§ 32.32 COMPENSATION.

The Town Council shall determine the amount of compensation, benefits, and terms of employment for all personnel of the Street Department.
(Prior Code, Ch. 2, Art. IX, § 3)

§ 32.33 POWERS AND DUTIES.

The Superintendent shall be:

(A) Responsible for the efficient and effective performance of the Street Department in the maintenance and repair of streets, alleys, drains, ditches, storm sewers and other public property of Spencer; and

(B) Responsible for the care, safety, use and custody of all town property provided to the Street Department for use in carrying out its functions.
(Prior Code, Ch. 2, Art. IX, § 4)

§ 32.34 USE OF EQUIPMENT.

No equipment, tools, or other property of the town furnished to the Street Department shall be unreasonably used for any purpose other than for accomplishing the responsibilities assigned to the Street Department without prior Town Council approval.
(Prior Code, Ch. 2, Art. IX, § 5)

§ 32.35 RECORDS AND REPORTS.

The Superintendent shall maintain the records and make the reports as are required by state law, to the Town Council and/or the Clerk-Treasurer.
(Prior Code, Ch. 2, Art. IX, § 6)

SEWAGE DEPARTMENT

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§ 32.50 SEWAGE DEPARTMENT CREATED.

(A) There is hereby established a Sewage Department for the town which shall consist of a Superintendent and other employees as shall be authorized from time to time by the Town Council.

(B) The Sewer Department shall be under the general administrative direction of the Town Council.

(Prior Code, Ch. 2, Art. X, § 1)

§ 32.51 APPOINTMENTS.

(A) The Superintendent of the Sewage Department and all other appointments to the Sewage Department shall be made with the approval of the Town Council. The Superintendent and/or sewage disposal operators shall have, and maintain in a current status, the licenses and/or meet the technical qualifications as may be required or prescribed by state and federal laws and regulations.

(B) The Superintendent shall be the head of the Sewage Department and have supervision over all employees thereof.

(Prior Code, Ch. 2, Art. X, § 2)

§ 32.52 COMPENSATION.

The Town Council shall determine the amount of compensation, benefits, and terms of employment for all personnel of the Sewage Department.

(Prior Code, Ch. 2, Art. X, § 3)

§ 32.53 POWERS AND DUTIES.

The Superintendent shall be responsible for the:

(A) Effective and efficient operation of the Municipal Sewage Treatment Plant and the Municipal Sanitary Sewer System; and

(B) Care, safety, use and custody of all town property provided to the Sewage Department for use in carrying out its functions.

(Prior Code, Ch. 2, Art. X, § 4)

Town Departments

§ 32.54 USE OF EQUIPMENT.

No equipment, tools, or other property of the town furnished to the Sewage Department shall be unreasonably used for any purpose other than for accomplishing the responsibilities assigned the Sewage Department without prior Town Council approval.

(Prior Code, Ch. 2, Art. X, § 5)

§ 32.55 RECORDS AND REPORTS.

The Superintendent shall maintain the records and make the reports as are required by state and federal agencies, the Town Council and/or the Clerk-Treasurer.

(Prior Code, Ch. 2, Art. X, § 6)

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CHAPTER 33: PURCHASING PROCEDURES

Section

- 33.01 Policies for purchases under a certain amount
- 33.02 Rules to promote purchase of supplies made in United States
- 33.03 Purchasing Agent; duties and responsibilities
- 33.04 Purchasing Agency

§ 33.01 POLICIES FOR PURCHASES UNDER A CERTAIN AMOUNT.

(A) The Spencer Town Council, (the "Purchasing Agency"), authorizes its Clerk-Treasurer, as its Purchasing Agent, to make purchases for normal operation of the town's business in an amount no greater than \$2,500.

(B) The purchases may be made without inviting or receiving bids or RFP's. This purchases must be made for normal operation of the town's activities.

(C) The amounts must be verified by a purchase order and/or quote prior to approval, unless an emergency exists.
(Ord. 1998-5, passed 10-5-1998)

§ 33.02 RULES TO PROMOTE PURCHASE OF SUPPLIES MADE IN UNITED STATES.

Supplies manufactured in the United States shall be specified for all town purchases and shall be purchased unless the town determines that:

(A) The supplies are not manufactured in the United States in reasonably available quantities;

(B) The prices of the supplies manufactured in the United States exceeds by an unreasonable amount the price of available and comparable supplies manufactured elsewhere;

(C) The quality of supplies manufactured in the United States is substantially less than the quality of comparably priced supplies manufactured elsewhere; or

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(D) The purchase of supplies manufactured in the United States is not in the public interest. (Ord. 1998-4, passed 10-5-1998)

§ 33.03 PURCHASING AGENT; DUTIES AND RESPONSIBILITIES.

(A) *Purchasing Agent.* The Town of Spencer Purchasing Agency, (the "Purchasing Agency"), hereby establishes the Clerk-Treasurer as the Purchasing Agent for the Town of Spencer Purchasing Agency.

(B) *Deputy Purchasing Agents.* The Clerk-Treasurer may designate, in writing, any employee of the Town of Spencer as a Deputy Purchasing Agent. The Clerk-Treasurer shall notify, in writing, the Purchasing Agency, of any such nomination and/or designation as soon as reasonably practicable.

(C) *Offers.* The Clerk-Treasurer, as Purchasing Agent, shall retain all offers received in a secure location, prior to the date and time at which offers will be opened in order to prevent disclosure of the contents prior to the opening of the offers.

(D) *Maintaining Offers.* The Clerk Treasurer, as Purchasing Agent, shall be responsible for maintaining the offers in such a manner so as to permit evaluation of the offers by persons responsible for evaluation of the offers.

(E) *Bids.* The Clerk Treasurer, as the Purchasing Agent, shall receive bids in response to an invitation to bid and will keep secure and sealed until opening. After opening, the Clerk-Treasurer shall make bids available for public inspection.

(F) *Requests for proposals.* The Clerk-Treasurer, as the Purchasing Agent, may award contracts through request for proposals, instead of competitive bids, if the purchasing agent makes a written determination that bidding procedure is not practicable or not advantageous to the governmental body. The Clerk-Treasurer, as Purchasing Agent, shall prepare and maintain for public inspection, a register of proposals for each requests for proposal ("RFP") issued which shall contain information concerning the proposals. The Clerk-Treasurer shall solicit bids from at least 3 vendors. Proposals may not be disclosed.

(G) *Small purchases.* The Purchasing Agent may make small purchases under \$25,000 under small purchase policies as established under rules adopted by the governmental body.

(H) *Notices.* All notices for invitations to bid, and RFP's shall be published in accordance with I.C. 5-3-1 *et seq.*
(Ord. 1998-3, passed 10-5-1998)

Purchasing Procedures

§ 33.04 PURCHASING AGENCY.

(A) The Spencer Town Council, (the "Purchasing Agency"), is established as the purchasing agency for the Town of Spencer.

(B) The Purchasing Agency shall have the powers and duties authorized under I.C. 5-22, as may be supplemented from time to time by ordinances adopted by the Town Council and policies adopted by the Purchasing Agency.

(C) The Purchasing Agency shall act as the Purchasing Agency for every agency, board, office, branch, commission, council, department or other establishment of the Town of Spencer.

(D) The Purchasing Agency may designate, in writing, any employee of the Town of Spencer as a Purchasing Agent.
(Ord. 1998-2, passed 10-5-1998)

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CHAPTER 34: FINANCES

Section

General Provisions

- 34.01 Issuance, use and control of credit cards by town employees
- 34.02 Town departments and authority to spend a certain amount

GENERAL PROVISIONS

§ 34.01 ISSUANCE, USE AND CONTROL OF CREDIT CARDS BY TOWN EMPLOYEES.

(A) This section is adopted in compliance with the State Board of Accounts *Accounting and Uniform Compliance Guidelines Manual for Cities and Towns*, Chapter 7, authorizing a town to use credit cards for purchases.

(B) The Clerk-Treasurer of the Town of Spencer is hereby authorized to apply for 1 or more credit cards to be issued in the name of the town and the use thereof by the Clerk-Treasurer, Chief of the Spencer Police Department, Street Department Supervisor and Sewer Department Superintendent. The Clerk-Treasurer is hereby authorized to pay an annual fee if necessary.

(C) Physical possession of the credit cards shall be placed with the Clerk-Treasurer, who shall authorize the use thereof by the Clerk-Treasurer, Chief of the Spencer Police Department, the Street Department Supervisor and Sewer Department Supervisor for the payment of authorized travel expenses and the authorized purchase of goods and services directly related to the operation of their specific department. In each instance of the use of a credit card, once the authorized purpose for which the use of the card is accomplished, physical possession of the card shall be returned to the Clerk-Treasurer.

(D) The Spencer Clerk-Treasurer shall maintain an accounting system, or log, which would include the names of individuals requesting usage of the cards, their title, estimated amounts to be charged, fund and account numbers to be charged, date the card is issued and returned.

(E) Charges are not to exceed \$1,000 per department per month. Charges shall only be made on the credit card to purchase items or services which are authorized and budgeted in the budget of the town.

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(F) Within 72 hours of the purchase, the person using the credit card shall provide a copy of the credit card receipt and shall inform the Clerk-Treasurer in writing of the following:

- (1) The purpose of the purchase;
- (2) The budgeted line item from which the purchase is to be paid; and
- (3) An itemized list of all charges incurred and whether those are from a different budget line item.

(G) All credit card billing statements shall be sent by the issuer to the Clerk-Treasurer and the charges on the cards shall be paid by the Spencer Clerk-Treasurer from the appropriate budget line item pursuant to the claim procedures of the town.

(H) The Clerk-Treasurer shall pay the cards promptly so that no interest carrying charges or penalties will be incurred due to late payments. Any department head who causes interest or carrying charges to be added to the credit card account by a failure to timely provide required information to the Clerk-Treasurer shall be personally liable for the interest or carrying charges.

(I) No official or department head shall use the credit card issued to the Town of Spencer for personal transactions.

(Ord. 2006-3, passed 6-19-2006)

§ 34.02 TOWN DEPARTMENTS AND AUTHORITY TO SPEND A CERTAIN AMOUNT.

(A) The superintendents of town departments have the authority to spend up to \$1,000 without prior approval, to spend from \$1,000 to \$2,000 with approval of the department's liaison Council member, and must have Town Council approval for expenditures above \$2,000. This shall be the total amount of expenditures within a calendar month with the exception of ordinary recurring or emergency situations.

(B) In all instances of expenditures, the Superintendent is to check with the Clerk-Treasurer on availability of funds prior to placing an order. This policy shall be in effect for all departments of the town, including the Street, Sewer, Police, Fire, Building and Parks and/or Recreation Departments. This motion shall be effective upon passage.

(Ord. passed 12-20-2004)

CHAPTER 35: MISCELLANEOUS PROVISIONS

Section

- 35.01 Police accident fee
- 35.02 Event registration form
- 35.03 Complaint form

§ 35.01 POLICE ACCIDENT FEE.

The Town Council of Spencer establishes the fee for accident reports to not be an amount which exceeds the maximum allowable by state law.
(Ord. 2006-3, passed 7-3-2006)

§ 35.02 EVENT REGISTRATION FORM.

To ensure proper coordination of public events of any nature, the sponsoring entity must fill out and submit an event registration form at least 72 hours prior to the planned event and obtain approval of all requested departments of the Town of Spencer.

§ 35.03 COMPLAINT FORM.

The town will respond to complaints, suggestions, or requests concerning the town's ordinances, procedures, or personnel issues in writing on the form prescribed by the Town of Spencer.

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CHAPTER 36: PERSONNEL POLICY

Section

36.01 Personnel Policy; adopted by reference

§ 36.01 PERSONNEL POLICY; ADOPTED BY REFERENCE.

The Town of Spencer's Personnel Policy is hereby adopted by reference and incorporated herein as if set out in full.

(Prior Code, Ch. 3, Art. I through XVII) (Ord. passed - -; Am. Res. 1983-5, passed 6-6-1983; Am. Ord. 1997-4, passed 6-2-1997; Am. Ord. 1997-14, passed 12-1-1997; Am. Ord. 2006-1, passed 1-9-2006; Am. Ord. passed 12-18-2006)

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